
SENATE BILL 5943

State of Washington 59th Legislature 2005 Regular Session

By Senators Kohl-Welles, McCaslin, Thibaudeau, Franklin, Fraser, Kline and Regala

Read first time 02/16/2005. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to medical use of marijuana; amending RCW
2 69.51A.010, 69.51A.030, and 69.51A.040; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature intends to clarify the law
5 on medical marijuana so the lawful use of this substance is not
6 impaired and medical practitioners are able to exercise their best
7 professional judgment in the delivery of medical treatment without fear
8 of state criminal prosecution. This act is also intended to provide
9 clarification to law enforcement and to all parties in the judicial
10 system.

11 **Sec. 2.** RCW 69.51A.010 and 1999 c 2 s 6 are each amended to read
12 as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) "Medical use of marijuana" means the production, possession, or
16 administration of marijuana, as defined in RCW 69.50.101(q), for the
17 exclusive benefit of a qualifying patient in the treatment of his or
18 her terminal or debilitating illness.

- 1 (2) "Primary caregiver" means a person who:
2 (a) Is eighteen years of age or older;
3 (b) Is responsible for the housing, health, or care of the patient;
4 (c) Has been designated in writing by a patient to perform the
5 duties of primary caregiver under this chapter.
6 (3) "Qualifying patient" means a person who:
7 (a) Is a patient of a physician licensed under chapter 18.71 or
8 18.57 RCW;
9 (b) Has been diagnosed by that physician as having a terminal or
10 debilitating medical condition;
11 (c) Is a resident of the state of Washington at the time of such
12 diagnosis;
13 (d) Has been advised by that physician about the risks and benefits
14 of the medical use of marijuana; and
15 (e) Has been advised by that physician that they may benefit from
16 the medical use of marijuana.
17 (4) "Terminal or debilitating medical condition" means:
18 (a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis,
19 epilepsy or other seizure disorder, or spasticity disorders; or
20 (b) Intractable pain, limited for the purpose of this chapter to
21 mean pain unrelieved by standard medical treatments and medications; or
22 (c) Glaucoma, either acute or chronic, limited for the purpose of
23 this chapter to mean increased intraocular pressure unrelieved by
24 standard treatments and medications; or
25 (d) Any other medical condition duly approved by the Washington
26 state medical quality assurance (~~(board [commission])~~) commission as
27 directed in this chapter.
28 (5) "Valid documentation" means:
29 (a) A statement signed by a qualifying patient's physician, or a
30 copy of the qualifying patient's pertinent medical records, which
31 states that, in the physician's professional opinion, the potential
32 benefits of the medical use of marijuana (~~(would likely)~~) may outweigh
33 the health risks for a particular qualifying patient; and
34 (b) Proof of identity such as a Washington state driver's license
35 or identicard, as defined in RCW 46.20.035.

36 **Sec. 3.** RCW 69.51A.030 and 1999 c 2 s 4 are each amended to read
37 as follows:

1 A physician licensed under chapter 18.71 or 18.57 RCW shall be
2 excepted from the state's criminal laws and shall not be penalized in
3 any manner, or denied any right or privilege, for:

4 (1) Advising a qualifying patient about the risks and benefits of
5 medical use of marijuana or that the qualifying patient may benefit
6 from the medical use of marijuana where such use is within a
7 professional standard of care or in the individual physician's medical
8 judgment; or

9 (2) Providing a qualifying patient with valid documentation, based
10 upon the physician's assessment of the qualifying patient's medical
11 history and current medical condition, that the ~~((potential benefits of
12 the medical use of marijuana would likely outweigh the health risks for
13 the))~~ medical use of marijuana may benefit a particular qualifying
14 patient.

15 **Sec. 4.** RCW 69.51A.040 and 1999 c 2 s 5 are each amended to read
16 as follows:

17 (1) If charged with a violation of state law relating to marijuana,
18 any qualifying patient who is engaged in the medical use of marijuana,
19 or any designated primary caregiver who assists a qualifying patient in
20 the medical use of marijuana, will be deemed to have established an
21 affirmative defense to such charges by proof of his or her compliance
22 with the requirements provided in this chapter. An individual seeking
23 to raise a defense provided in this chapter has a right to do so at
24 trial. Any person meeting the requirements appropriate to his or her
25 status under this chapter shall be considered to have engaged in
26 activities permitted by this chapter and shall not be penalized in any
27 manner, or denied any right or privilege, for such actions.

28 (2) The qualifying patient, if eighteen years of age or older,
29 shall:

30 (a) Meet all criteria for status as a qualifying patient;

31 (b) Possess no more marijuana than is necessary for the patient's
32 personal, medical use, not exceeding the amount necessary for a sixty-
33 day supply; and

34 (c) Present his or her valid documentation to any law enforcement
35 official who questions the patient regarding his or her medical use of
36 marijuana.

1 (3) The qualifying patient, if under eighteen years of age, shall
2 comply with subsection (2)(a) and (c) of this section. However, any
3 possession under subsection (2)(b) of this section, as well as any
4 production, acquisition, and decision as to dosage and frequency of
5 use, shall be the responsibility of the parent or legal guardian of the
6 qualifying patient.

7 (4) The designated primary caregiver shall:

8 (a) Meet all criteria for status as a primary caregiver to a
9 qualifying patient;

10 (b) Possess, in combination with and as an agent for the qualifying
11 patient, no more marijuana than is necessary for ((the)) one patient's
12 personal, medical use, not exceeding the amount necessary for a sixty-
13 day supply;

14 (c) Present a copy of the qualifying patient's valid documentation
15 required by this chapter, as well as evidence of designation to act as
16 primary caregiver by the patient, to any law enforcement official
17 requesting such information;

18 (d) Be prohibited from consuming marijuana obtained for the
19 personal, medical use of the patient for whom the individual is acting
20 as primary caregiver; and

21 (e) Be the primary caregiver to only one patient at any one time.

22 (5) A physician providing valid documentation in the form of a
23 signed statement to a qualified patient under this section must issue
24 to the patient a physician statement that includes the following
25 information:

26 Physician Statement of

27 Medical Opinion Pursuant to the

28 Washington State Medical Use of Marijuana Act

29 Qualifying Patient:

30 Date of Birth:

31 I am a physician licensed in the State of Washington. I am
32 treating the above-named patient for a terminal or debilitating
33 medical condition as defined in RCW 69.51A.010. It is my
34 medical opinion that the above-named patient may benefit from
35 the medical use of marijuana.

36 Signature of Physician:

37 Printed Name of Physician:

1 Phone number:
2 WA State Physician License number:
3 Date:
4 (6) The department of health shall develop a form for use by
5 physicians in providing the information required by subsection (5) of
6 this section.

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